

**Remarks**

The Specification was objected to for referring to claims in the specification. By this amendment such references have been removed and the text of claim 1 has been used instead. Reconsideration of this objection is requested.

The Specification has also been objected to for listing prior art therein. With this amendment an IDS is being submitted in which the patents mentioned in the Specification are listed as well as several others which were cited by foreign examiners in the prosecution of corresponding application in Germany and the EPO. While the references to foreign patents have not been deleted from the specification, the mention of them is believed proper since they are not a "listing of prior art" but are rather references to possibly useful teachings which are now found in the Information Disclosure Statement. Reconsideration of this objection is also requested.

The Examiner has required a drawing be submitted. It should be mentioned that none of the corresponding foreign applications have included a drawing so it is not clear why a drawing is needed here. Nevertheless, applicant made a drawing based on the description found in the specification and this drawing is being submitted herewith. Clearly, an examination of the specification and of the art listed in the Information Disclosure Statement shows that no "new matter" is found in this drawing. Reconsideration of this rejection is also requested.

The Examiner has objected to the use of foreign patents WO99/63272 and WO99/63273 to provide material for incorporation into the specification and has required that the material be incorporated into the specification along with an affidavit or Declaration that the material is in fact that which is in the foreign application.

Accordingly, the specification has been amended recite two U.S. Patents (U.S. 6,561,791 B1 and U.S. 6,537,060 B2) which correspond to the foreign patents WO 99/63272 and WO 99 63273 respectively. Copies of these patents are included herewith. Also a declaration of the

undersigned is herewith submitted showing that these U. S. Patents contain the same subject matter as the objected to foreign patents and that they contain no "new matter." Accordingly, this objection is believed overcome and reconsideration is requested.

Claims 1-19 have been rejected under 35 USC 112 for failing to comply with the enablement requirement. The claims are said to contain subject matter not described in the specification. The examiner states the "--while applicant, through apparent incorporation by reference, seems to rely on subject matter representing 'conventional systems' disclosed by references WO99/63272 and WO99/63273----reliance on this essential subject matter---is improper (see discussion of incorporation by reference of foreign documents herein above.)". Since the objection to WO99/63272 and WO99/63273 is believed overcome by reference to the corresponding US patents, (see item 4, above) the specification is no longer believed to be deficient. Accordingly, the enablement requirement of 35 USC 112 is believed to be satisfactorily met and reconsideration of this rejection is requested.

Claims 1-3, 8-12, 16, 18 and 19 have been rejected under 35 USC 102(b) as being anticipated by JP'258 (Japanese 09-236258.). The present invention involves the use of a signal from the sensor to adapt the gas-air mixtures to different gas qualities at certain specific points in time only. In other words it is not used over the whole operating time of the burner as is explained in the discussion of the prior controllers on pages 1 and 2 of the present specification. The Japanese reference '258 appears to do just that. The Japanese control involves the reading of the sensor at a "plurality of times" during which the fuel supply is gradually increased from a minimum to a maximum. The expression "plurality of times" does not mean at selected points in time as the Examiner suggests but rather substantially continuously during the whole range of operation as is suggested by the expression "from minimum to maximum". The advantages of using only a few specific points in time e.g. immediately after installation, immediately after a

fresh start and subsequent to a reset are explained on page 4 of the present text to minimize the negative influences of the aging process of the sensor.

In order to advance prosecution of the application, the claims have been amended to more clearly bring out this distinction in a manner similar to present claim 9. More specifically, claim 1 is amended to include the word "only" after "selected points in time" to show that the signal is not used over the whole range as is done in the Japanese reference. Claims 2 -3 are dependent on claim 1 and add the specific times of "installation" and "fresh start" to yet more clearly define the present invention over the Japanese reference since the Japanese reference does not mention any specific times .

Claim 8 recites the feature that when the composition ratio exceeds the range established by the sensor, the upper or the lower limit is used as the composition ration as explained at the bottom of page 4 and the top of page 5 of the present specification. The Japanese reference '258 does not mention any composition ratio range established by the sensor and offers no solution for the problem of having a composition ratio which exceeds the range. Accordingly, it is believed that claim 8 defines patentable novelty over the Japanese reference '258.

Claim 9, specifically points out that the output of the sensor is applied only at predetermined times and thus distinguishes over the Japanese reference '258 in the same way as claim 1. Claims 10-12, 16, 18 and 19 are dependent on claim 9 and add further limitations thereto in a manner similar to the way claims 2-8 added further limitations to claim 1. Accordingly, these claims also distinguish patentability over the Japanese reference '258.

None of the other art mentioned in the "Notice of References Cited" disclose the novel features now clearly present in claims 1-3, 8-12, 16, 18 and 19 and accordingly, reconsideration and allowance of these claims is respectfully requested.

Claims 4-7, 13, 14, 15, 17 have been rejected under 35 USC 103(a) as being unpatentable over the Japanese patent '258. This is based on the Examiner's statement that "JP '258 (Japanese 09-236258) discloses the invention substantially set forth in the claims," and that "Official Notice is taken that it is well known to recalibrate control system components after 'reset' and during stable operating conditions." Applicant disagrees with the Examiner that applying signals after "reset" and "during stable operating conditions." is a matter of Official Notice when applied to controlling gas-air mixture to a burner, but more particularly, it is clearly not applicable to the present situation where the signal is used only at selected times. One skilled in the art would not find it obvious to use "reset" and "during stable operating conditions" particularly since using the signal from the sensor to adapt the gas-air mixture to different gas qualities only during selected times is not obvious. The other art mentioned in the "Notice of References Cited" similarly fail to teach the invention of these claims. Accordingly, claims 4-7, 13, 14, 15, 17 are believed to define patentable invention over the cited art and reconsideration and allowance of them is also respectfully requested.

A sincere attempt has been made to place this case in condition for allowance and such action is respectfully requested.

Respectfully submitted,



Charles J. Ungemach  
Registration No. 18,984  
Ungemach & Associates  
1122 27th Ave. NW  
New Brighton MN 55112  
(651) 636-6331

CJU